

Rule 285, Approval of Agreements to Compromise Judgments for Client Security Fund Payments and Assessments, of the Rules of Procedure of the State Bar of California.

- Rule 285 is a proposed new Rule of Procedure that addresses the approval of agreements to compromise judgments for CSF payments and assessments. Business and Professions Code section 6140.5, subdivision (c) provides, in pertinent part, that a member who resigns with disciplinary charges pending or who is disbarred or suspended, must reimburse the Client Security Fund for any payments made as a result of his or her conduct, along with applicable interest and costs, as a condition of reinstatement of membership.
- By its terms, section 6140.5, subdivision (c) does not appear to permit the State Bar or the State Bar Court to accept anything less than full reimbursement of CSF payments and assessments in satisfaction of a money judgment. However, Business and Professions Code section 6087 recognizes that nothing contained in the State Bar Act (Bus. & Prof. Code, §§ 6000-6238) shall be construed as limiting or altering the powers of the Supreme Court to disbar or discipline members of the State Bar. Moreover, section 6087 further provides that the Supreme Court may, by rule, authorize the State Bar to take any action otherwise reserved to the Supreme Court in any matter arising under the State Bar Act or initiated by the Supreme Court. (See also, *In re Attorney Discipline System* (1998) 19 Cal.4th 582, 598-600.)
- Thus, notwithstanding the language of Business and Professions Code section 6140.5, subdivision (c), the proposed addition of rule 951(h) of the California Rules of Court would authorize the State Bar Court to compromise a money judgment for CSF payments and assessments arising out of a disciplinary order by the Supreme Court or the State Bar Court. Proposed rule 285 sets forth the procedure to be followed for seeking approval of such compromises and, significantly, would require the State Bar and the respondent attorney to reach agreement upon a proposed compromise of the judgment before a motion to approve the compromise could be filed in the State Bar Court.

Proposed New Rule 285
Rules of Procedure of the
State Bar of California

**RULE 285. APPROVAL OF AGREEMENTS TO COMPROMISE JUDGMENTS FOR
CLIENT SECURITY FUND PAYMENTS AND ASSESSMENTS.**

- (a) A respondent against who a judgment has been entered pursuant to rule 951(h) of the California Rules of Court and Business and Professions Code section 6140.5, and who wishes to compromise that judgment pursuant to an agreement between respondent and the State Bar, shall file an application for approval of the proposed agreement with the State Bar Court. The application and any supporting documents shall be served upon the Office of the Chief Trial Counsel pursuant to the rule for service of initial pleadings (rule 60).
- (b) The Office of the Chief Trial Counsel may file and serve a response to the application for approval of a compromise of judgment within twenty (20) days from the service of the application.
- (c) No hearing on the application is required and shall only be held if the Court, in the exercise of its discretion, determines that it will materially contribute to the consideration of the application.
- (d) An order of the Court on the application under this rule shall be reviewed only pursuant to rule 300 and upon grounds of error of law or abuse of discretion.

Eff. TBD

Source: New